

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD K. BOWMAN,

Plaintiff

v.

THURSTON COUNTY CORRECTIONS, et
al,

Defendant.

Case No. C02-5620RJB

ORDER

This matter comes before the court on Plaintiff's Motion for Voluntary Dismissal (Dkt. 124), to which the defendants have not responded. The court has considered the pleadings filed in support of the motion and the file herein.

Federal Rule of Civil Procedure 41(a) allows the court to dismiss an action upon notice by the plaintiff if the opposing party has not yet served an answer or a motion for summary judgment or by stipulation of all of the parties who have appeared in the action. Fed. Rule Civ. P. 41(a)(1). Rule 41(a) also requires that a voluntary dismissal not meeting the requirements of Rule 42(a)(1) be made by court order upon terms and conditions that the court deems just.

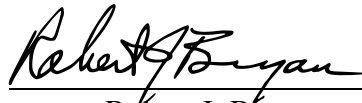
Though he professes to seek dismissal under Rule 42(a)(1), the fact that the plaintiff is petitioning the court for an order dismissing the case illustrates that he is actually proceeding under Rule 42(a)(2). Having received no response objecting to dismissal of the case, the court should grant the plaintiff's motion and dismiss the case without prejudice.

1 Therefore, it is hereby

2 **ORDERED** that Plaintiff's Motion for Voluntary Dismissal (Dkt. 124) **GRANTED**, and
3 this case is dismissed. All pending motions are **DENIED** as moot.

4 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
5 to any party appearing *pro se* at said party's last known address.

6 DATED this 21st day of September, 2005.

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9 Robert J. Bryan
10 United States District Judge
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